(e) The entity must account for the volume of diesel fuel produced using DTAB in a manner that excludes the volume of any previously designated diesel fuel. The diesel fuel tank bottom may not be included in the company's refinery compliance calculations for that batch of diesel fuel if the fuel in that tank bottom has been previously designated by a refiner or importer. This exclusion of previously designated diesel fuel must be accomplished using the following approach:

(1) Determine the volume of any tank bottom that is previously designated diesel fuel before any diesel fuel production begins.

(2) Add the DTAB plus any blendstock to the storage tank, and completely mix the tank.

(3) Determine the volume and sulfur content of the diesel fuel contained in the storage tank after blending is complete. Mathematically subtract the volume of the tank bottom to determine the volume of the DTAB plus blendstock added, and subsequently transferred to another facility. Such fuel is reported to EPA as a batch of diesel fuel under §§ 80.593, 80.601, and 80.604.

(4) If previously designated motor vehicle diesel fuel having a sulfur content of 15 ppm or less is blended with DTAB, and the combined product after blending has a sulfur content that exceeds 15 ppm, the importer entity, in its capacity as a refiner, must redesignate all the diesel fuel as 500 ppm sulfur motor vehicle diesel fuel for purposes of the temporary compliance option under § 80.530, or other permissible redesignation under § 80.598. If #2D 15 ppm sulfur motor vehicle diesel fuel is redesignated as #2D 500 ppm sulfur motor vehicle diesel fuel, such entity must apply the volume of previously designated 15 ppm sulfur diesel fuel, for purposes of its operations as a distributor, to its downgrading limitation under § 80.527, if applicable, and for volume balancing purposes under § 80.599.

(5) As an alternative to paragraphs (e)(1) through (e)(4) of this section, where an importer has a blending tank that is used only to combine DTAB and blending components, and no previously designated diesel fuel is added to the tank, the importer entity, in its capacity as a refiner, may account for the diesel fuel produced in such a blending tank by sampling and testing for the sulfur content of the batch after DTAB and blendstock are added and mixed, and reporting the volume of diesel fuel transferred from that tank to a different facility, up to the point where a new blend is produced by adding new DTAB and blendstock.

(f) The importer must include the volume and sulfur content of each batch of DTAB in the annual importer reports to EPA, as prescribed under §§ 80.593, 80.601, and 80.604, but with a notation that the batch is not included in the importer compliance calculations because the product is DTAB. Any DTAB that ultimately is not used in the importer's refinery operation (for example, a tank bottom of DTAB at the conclusion of the refinery operation), must be treated as newly imported diesel fuel, for which all required sampling and testing, and recordkeeping must be accomplished, and included in the importer's compliance calculations for the averaging period when this sampling and testing occurs.

(g) The importer must retain records that reflect the importation, sampling and testing, and physical movement of any DTAB, and must make these records available to EPA on request.

[69 FR 39170, June 29, 2004]

§ 80.513 What provisions apply to transmix processing facilities and pipelines that produce diesel fuel from pipeline interface?

For purposes of this section, transmix means a mixture of finished fuels, such as pipeline interface, that no longer meets the specifications for a fuel that can be used or sold without further processing or handling. For the purposes of this section, pipeline interface means the mixture between different fuels that abut each other during shipment by pipeline. This section applies to refineries (or other facilities) that produce diesel fuel from transmix by distillation or other refining processes but do not produce diesel fuel by processing crude oil and to pipelines that produce diesel fuel from transmix. This section only applies to the volume of diesel fuel produced from transmix by a transmix processor using these

processes, and to the diesel fuel volume produced by a pipeline operator from transmix. This section does not apply to any diesel fuel volume produced by the blending of blendstocks.

(a) From June 1, 2006 through May 31, 2010, motor vehicle diesel fuel produced by a transmix processor is subject to the 500 ppm sulfur standard under § 80.520(c).

(b) Beginning June 1, 2010, motor vehicle diesel fuel produced by a transmix processor is subject to the sulfur standard under § 80.520(a)(1).

(c) From June 1, 2007 through May 31, 2010, NRLM diesel fuel produced by a transmix processor is exempt from the standards of § 80.510(a). This paragraph (c) does not apply to NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1) or (g)(2).

(d) From June 1, 2010 through May 31, 2014, NRLM diesel fuel produced by a transmix processor or a pipeline facility that produces diesel fuel from transmix is subject to the standards under § 80.510(a). This paragraph (d) does not apply to NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1) or (g)(2).

(e) From June 1, 2014 and beyond, NRLM diesel fuel produced by a transmix processor and a pipeline facility that produces diesel fuel from transmix is subject to the standards of § 80.510(c).

(f) From February 25, 2013 through May 31, 2014, LM diesel fuel produced by a transmix processor or a pipeline facility that produces diesel fuel from transmix that is sold or intended for sale in the area listed in § 80.510(g)(1) is subject to the standards of § 80.510(a) provided that the conditions in paragraph (h) of this section are satisfied. Diesel fuel produced from transmix that does not meet the conditions in paragraph (h) of this section is subject to the sulfur standard in § 80.510(c).

(g) Beginning June 1, 2014, LM diesel fuel produced by a transmix processor or a pipeline facility that produces diesel fuel from transmix is subject to the sulfur standard of § 80.510(a), provided that the conditions in paragraph (h) of this section are satisfied. Diesel fuel produced from transmix that does not meet the conditions in paragraph (h) of this section is subject to the sulfur standard in § 80.510(c).

(h) The following conditions must be satisfied to allow the production of 500 ppm LM under paragraphs (f) and (g) of this section.

(1) The fuel must be produced from transmix.

(2) The fuel must not be sold or intended for sale in the area listed in § 80.510(g)(2) (*i.e.*, Alaska).

(3) A facility producing 500 ppm LM diesel fuel must obtain approval from the Administrator for a compliance plan. The compliance plan must detail how the facility will segregate any 500 ppm LM diesel fuel produced subject to the standards under § 80.510(a) from the producer through to the ultimate consumer from fuel having other designations. The compliance plan must demonstrate that the end users of 500 ppm LM will also have access to 15 ppm diesel fuel for use in those engines that require the use of 15 ppm diesel fuel. The compliance plan must identify the entities that handle the 500 ppm LM through to the ultimate consumer. No more than 4 separate entities shall handle the 500 ppm LM between the producer and the ultimate consumer. The compliance plan must also identify all ultimate consumers to whom the refiner supplies the 500 ppm LM diesel fuel. The compliance plan must detail how misfueling of 500 ppm LM into vehicles or equipment that require the use of 15 ppm diesel fuel will be prevented.

(i) Producers of 500 ppm LM diesel fuel must be registered with EPA under § 80.597 prior to the distribution of any 500 ppm LM diesel fuel.

(ii) Producers of 500 ppm LM must initiate a PTD that meets the requirements in paragraph (h)(3)(iii) of this section.

(iii) All transfers of 500 ppm LM diesel fuel must be accompanied by a PTD that clearly and accurately states the fuel designation; the PTD must also meet all other requirements of § 80.590.

(iv) Batches of 500 ppm LM may be shipped by pipeline provided that such batches do not come into physical contact in the pipeline with batches of other distillate fuel products that have a sulfur content greater than 15 ppm.

(v) The volume of 500 ppm LM shipped via pipeline under paragraph (h)(3)(iv) of this section may swell by no more than 2% upon delivery to the next party. Such a volume increase may only be due to volume swell due to temperature differences when the volume was measured or due to normal pipeline interface cutting practices notwithstanding the requirement under paragraph (h)(3)(iv) of this section.

(vi) Entities that handle 500 ppm LM must calculate the balance of 500 ppm LM received versus the volume delivered and used on an annual basis.

(vii) The records required in this section must be maintained for five years, by each entity that handles 500 ppm LM and be made available to EPA upon request.

(4) All parties that take custody of 500 ppm LM must segregate the product from other fuels and observe the other requirements in the compliance plan approved by EPA pursuant to paragraph (h)(3) of this section.

[69 FR 39171, June 29, 2004, as amended at 75 FR 22969, Apr. 30, 2010; 77 FR 75879, Dec. 26, 2012]

§§ 80.514–80.519 [Reserved]

MOTOR VEHICLE DIESEL FUEL STANDARDS AND REQUIREMENTS

§ 80.520 What are the standards and dye requirements for motor vehicle diesel fuel?

(a) *Standards.* All motor vehicle diesel fuel is subject to the following per-gallon standards:

(1) *Sulfur content.* 15 parts per million (ppm) maximum, except as provided in paragraph (c) of this section;

(2) *Cetane index and aromatic content.* (i) A minimum cetane index of 40; or

(ii) A maximum aromatic content of 35 volume percent.

(b) *Dye requirements.* (1) All motor vehicle diesel fuel shall be free of visible evidence of dye solvent red 164 (which has a characteristic red color in diesel fuel), except for motor vehicle diesel fuel that is used in a manner that is tax exempt under section 4082 of the Internal Revenue Code. All motor vehicle diesel fuel shall be free of yellow solvent 124.

(2) Until June 1, 2010, any #1D or #2D distillate, or NP diesel fuel that does not show visible evidence of dye solvent red 164 shall be considered to be motor vehicle diesel fuel and subject to all the requirements of this subpart for motor vehicle diesel fuel, except for distillate fuel designated or classified as any of the following:

(i) For use only in the State of Alaska, as provided under 40 CFR 69.51.

(ii) For use under a national security exemption under § 80.606 or for use only in a research and development testing program exempted under § 80.607.

(iii) For use in the U.S. Territories as provided under § 80.608.

(iv) Jet fuel meeting the definition under § 80.2.

(v) Kerosene meeting the definition under § 80.2.

(vi) Diesel fuel that is produced beginning June 1, 2006, with a sulfur level less than or equal to 500 ppm, and designated as NRLM or LM that has not yet been distributed from a truck loading terminal or bulk terminal to a retail outlet, wholesale purchaser-consumer or ultimate consumer.

(c) Pursuant and subject to the provisions of §§ 80.530–80.532, 80.552(a), 80.560–80.561, and 80.620, only motor vehicle diesel fuel produced or imported in full compliance with the requirements of those provisions is subject to the following per-gallon standard for sulfur content: 500 ppm maximum.

[66 FR 5136, Jan. 18, 2001, as amended at 69 FR 39171, June 29, 2004; 71 FR 25717, May 1, 2006]

§ 80.521 What are the standards and identification requirements for diesel fuel additives?

(a) Except as provided in paragraph (b) of this section, any diesel fuel additive that is added to, intended for adding to, used in, or offered for use in any MVNRLM diesel fuel subject to the 15 ppm sulfur content standards of § 80.510(b), § 80.510(c), or § 80.520(a) at any downstream location must—

(1) Have a sulfur content less than or equal to 15 ppm.

(2) Be accompanied by a product transfer document pursuant to § 80.591 indicating that the additive complies